

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 4350 of 1986****For Approval and Signature:****HONOURABLE MS. JUSTICE R.M.DOSHIT**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JADIBEN TAKHABEN & 2 - Petitioner(s)**Versus****THE AHMEDABAD SARANGPUR MILLS CO. LTD. - Respondent(s)**

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Appearance :

MR RASHEED PATHAN for Petitioner(s) : 1 - 3.

SERVED BY AFFIX.-(R) for Respondent(s) : 1,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT**Date : 13/09/2006****ORAL JUDGMENT**

This petition under Article 227 of the
Constitution of India has been preferred by three
workmen (hereinafter referred to as, "the workmen")

against the common judgment and order dated 20th September, 1984 passed by the Industrial Court, Ahmedabad in Appeals (IC) Nos.72/1982, 73/1982 and 74/1982 in so far as Appeal (IC) No.74/1982 preferred by the respondent - Ahmedabad Sarangpur Mills Company Limited (hereinafter referred to as, **"the Company"**) has been allowed.

Feeling aggrieved by the termination of their service, some 14 employees of the Company approached the Labour Court, Ahmedabad in Applications Nos. T-194/1977, T-195/1977 and T-624/1977. The workmen are three of the applicants in Application No. T-195/1977. The said Termination Applications were allowed by the learned Labour Judge by a common judgment and order dated 26th August, 1982. Feeling aggrieved, the Company preferred above referred Appeals (IC) Nos.72/1982, 73/1982 and 74/1982 before the Industrial Court, Ahmedabad. The Appeals Nos.72/1982 and 74/1982 came to be allowed by the lower appellate Court. The order passed by the Labour Court in favour of the workmen (the applicants in Application No. T-195/1977) is set-aside. Therefore,

the present petition.

It was the claim of the workmen that they had been employed by the Company and had been serving in the Company in its winding department since 1976; that they were paid daily wages at the rate of Rs.3=00 per day. However, as the workmen demanded full wages, the Manager of the Company, without following lawful procedure, by oral order stopped assigning any work to the workmen. The Company was, therefore, guilty of continuous wrong unto the workmen.

The Application was contested by the Company. The Company filed its written reply. It denied that the workmen were the employees of the Company. According to the Company, the workmen came to collect the waste yarn. The Application was also barred by limitation. The Labour Court, therefore, had no authority to entertain and decide the said Applications.

The learned Labour Judge, by common judgment and

order dated 26th August, 1982, allowed the Applications. The learned Labour Judge recorded a finding that the workmen were the servants of the Company in its Chapat Department for about eight years before their service was discontinued on 3rd August, 1976. The order of termination of their service being illegal, the workmen continued to be the servants of the Company even after 3rd August, 1976. Consequently, the Labour Court directed the Company to reinstate all applicants (including the workmen) in service in Chapat Department and to pay them full wages for the period from 3rd August, 1976 till the date of reinstatement.

Feeling aggrieved, the Company preferred the above referred Appeals (IC) Nos.72/1982, 73/1982 and 74/1982 before the Industrial Court, Ahmedabad. The Industrial Court, Ahmedabad, by its impugned judgment and order, upheld the finding of the Labour Court in respect of the applicants' being the servants of the Company. However, allowed the Appeals Nos.72/1982 and 74/1982 and dismissed the Applications Nos.T-194/1977 and T-195/1977 on the sole ground that the same were

not made within the time specified under Section 79 of the Bombay Industrial Relations Act, 1946.

It is indisputable that the workmen did not file Application No.T-195/1977 within the time specified by Section 79 of the Act. In absence of specific power to extend the period of limitation, the Labour Court could not have entertained or decided the Application made by the workmen.

In my opinion, the Industrial Court, Ahmedabad has rightly allowed the Appeal. No interference is warranted. Petition is dismissed. Rule is discharged. The parties shall bear their own cost.

(Ms. R.M.Doshit, J.)

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